

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS

In re: YUNKER, Richard E.
SSN xxx xx 3226
YUNKER, Julia R.
SSN xxx xx 5292

Chapter 13
Case No. 20-10895-JEB

MOTION OF CHAPTER 13 TRUSTEE FOR ORDER DISMISSING CASE FOR FAILURE
TO FILE TAX RETURNS AND FEASIBILITY
NOTICE OF BAR DATE OBJECTIONS/RESPONSES

Now comes the Chapter 13 Trustee (the "Trustee") and respectfully moves the Court for an Order dismissing this case. In support thereof, the Trustee states as follows:

1. On March 30, 2020, the above-captioned debtors (the "Debtors") filed a petition for relief under Chapter 13 of the United States Bankruptcy Code.
2. On April 28, 2020, the Trustee convened and presided at a meeting of creditors.
3. On April 7, 2020, the Massachusetts Department of Revenue filed a notice of unfiled tax returns with the court. Therefore the Trustee cannot recommend the Plan for confirmation pursuant to 11 U.S.C. Sec. 1308 and sec. 1325(a)(9).
4. Further, the Plan is not feasible. The Plan fails to fully provide for Wilmington Savings Fund's secured mortgage arrears claim in the sum of \$56,908.44, the Plan provides for \$47,860.92. The Plan fails to provide for Bayview Loan Servicing's secured claim in the sum of \$43,484.25. The Plan fails to provide for Ally Financial's secured claim in the sum of \$450.77.
5. The Trustee asserts that the Debtors' failure to file all outstanding tax returns and file a feasible plan constitute unreasonable delay that is prejudicial to creditors is grounds for dismissal pursuant to 11 U.S.C sec. 1307(c).

WHEREFORE, the Trustee respectfully requests that this Court enter an Order dismissing this case with prejudice.

Respectfully Submitted,

By: /s/ Carolyn A. Bankowski

Carolyn A. Bankowski, BBO #631056

Patricia A. Remer, BBO#639594

Office of the Chapter 13 Trustee

P.O. Box 8250

Boston, MA 02114

(617) 723-1313

13trustee@ch13boston.com

Dated: July 20, 2020

km

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS

In re: YUNKER, Richard E.
SSN xxx xx 3226
YUNKER, Julia R.
SSN xxx xx 5292

Chapter 13
Case No. 20-10895-JEB

ORDER DISMISSING CASE

The motion of the Chapter 13 Trustee to dismiss this case having come before this Court, due notice having been given, and for cause shown, it is hereby:

ORDERED: that this Chapter 13 case is dismissed

Dated: _____

U.S. Bankruptcy Judge

km

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS

In re: YUNKER, Richard E.
SSN xxx xx 3226
YUNKER, Julia R.
SSN xxx xx 5292

Chapter 13
Case No. 20-10895-JEB

NOTICE OF BAR DATE FOR OBJECTIONS/RESPONSES

Notice is given that any responses and/or objections to this motion are to be filed within twenty one (21) days of the date hereof. If no timely objections/responses are filed, the Court may act on this motion without further notice or hearing as provided by 11 U.S.C. §102(1)(B).

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the within Trustee's Motion to Dismiss was served upon the Debtor, Debtor's counsel of record and those parties listed on the following service list by first class mail, postage prepaid or by electronic notice.

Dated: July 20, 2020

/s/ Carolyn A. Bankowski
Carolyn A. Bankowski

SERVICE LIST

Richard & Julia Yunker
190 Norfolk Avenue
Swampscott, MA 01907

Colin Creager
Law Office of Nicholas F. Ortiz, P.C.
50 Congress Street
Suite 540
Boston, MA 02109

km